

Message Text

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ACTION IO-14

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07

L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15

USIA-06 DHA-02 ORM-02 AF-10 ARA-10 EA-07 EUR-12

NEA-10 /114 W

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TO SECSTATE WASHDC 4879

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E.O. 11652: N/A

TAGS: PFOR, UN, GW

SUBJECT: AD HOC COMMITTEE ON THE TAKING OF HOSTAGES

SUMMARY: COMMITTEE CONTINUED SUBSTANTIVE DEBATE AT AM AND PM MEETINGS AUG. 12. HALF OF THE COMMITTEE PARTICIPATED IN DEBATE, AND MOST REFERRED TO THE DRAFT CONVENTION OF THE FRG. DEBATE WAS LARGELY IMPROMPTU AND CONTAINED MUCH CHALLENGE AND RESPONSE. TANZANIA, ALGERIA AND MEXICO INTRODUCED PROPOSALS. MOST CONTROVERSIAL ISSUE WHETHER SCOPE OF ANY CONVENTION COVERS TAKING OF HOSTAGES BY NATIONAL LIBERATION MOVEMENTS (NLM'S). US HAS BEEN ACTIVE IN SUBSTANTIVE DEBATE AND IN PROCEDURAL TACTICS TO KEEP COMMITTEE FOCUS ON FRG DRAFT. END SUMMARY.

1. COMMITTEE NOW HAS BEFORE IT THE PROPOSALS OF SEVERAL STATES IN ADDITION TO FRG DRAFT CONVENTION. ALGERIA HAS SUBMITTED A DRAFT PREAMBLE TO ANY CONVENTION WHICH STATE THAT THE INTERNATIONAL COMMUNITY CANNOT TAKE PEPRESSIVE MEASURE AGAINST ACTS IN FURTHERANCE OF LEGITIMATE RIGHTS OF OPPRESSED PEOPLES. PREAMBLE HAS NOT BEEN DISCUSSED BY ANY OTHER SPEAKER. TANZANIA HAS SUBMITTED TWO PROPOSALS. FIRST, PROVIDES THAT THE TERM "TAKING OF HOSTAGES" SHALL NOT INCLUDE ACTS CARRIED OUT BY NLM'S RECOGNIZED BY THE UN OR REGIONAL ORGANIZATIONS AGAINST

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COLONIAL, RACIST AND FOREIGN REGIMES. PROPOSAL HAS BEEN SUPPORTED BY LESOTHO AND ALGERIA. SECOND TANZANIAN PROPOSAL RELATES TO TERRITORIAL INTEGRITY OF STATES (PARAGRAPH 6) AND HAS BEEN SUPPORTED BY ALGERIA. MEXICO HAS INTRODUCED INTERESTING PROPOSAL ATTEMPTING TO SIDESTEP PROBLEM OF NLM'S (SEPTTEL).

2. SIXTEEN DIFFERENT STATES PARTICIPATED IN AUG. 12 DEBATE. MAJOR ISSUE IS WHETHER EXCEPTION SHOULD BE MADE FOR NLM'S. TANZANIA, LESOTHO, ALGERIA AND NIGERIA HAVE SAID THAT NLM'S SHOULD BE ABLE TO TAKE HOSTAGES IN THE COURSE OF STRUGGLE FOR SELF-DETERMINATION. US INTERVENED TO ARGUE THAT THIS WAS REGRESSION TO NOTION OF JUST AND UNJUST WARS, THAT THERE ARE LIMITS EVEN ON WHAT STATES CAN DO IN SELF-DEFENSE, AND THAT LIMITS ON ACTS NLM'S COULD PERFORM HAD BEEN ACCEPTED BY ALL STATES DURING NEGOTIATION OF PROTOCOLS TO THE 1949 GENEVA CONVENTIONS. CANADA, FRG, NETHERLANDS, UK AND MEXICO SUPPORTED US.

3. MEXICO HAS ARGUED STRONGLY AGAINST ANY EXCEPTION FOR NLM'S CITING THE PREAMBLE OF THE PROTOCOL I AND NOTING THE PROHIBITION ON THE TAKING OF HOSTAGES IN THE PROTOCOLS AND THE OBLIGATION TO PROSECUTE OR EXTRADITE INDIVIDUALS WHO VIOLATE PROVISIONS OF THE GENEVA CONVENTIONS OR PROTOCOLS. TO AVOID POLITICAL PROBLEM OF APPEARING TO PUT LIMITS ON NLM'S, MEXICO HAS SUGGESTED THAT THE FRG DRAFT CONVENTION NOT APPLY DURING ARMED CONFLICTS SINCE THESE ARE COVERED BY THE GENEVA CONVENTIONS AND THE PROTOCOLS (SEPTEL). FRG HAS ATTEMPTED TO SUGGEST SOMEWHAT THE SAME THING IN DIFFERENT LANGUAGE IN ARTICLE 10 OF ITS CONVENTION.

4. WHEN NIGERIA AND OTHERS CONTINUED TO ARGUE THAT NLM'S SHOULD BE ABLE TO TAKE HOSTAGES, US SUGGESTED THAT LIMITED OFFICIAL USE

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COMMUNICATIONS BETWEEN GOVERNMENTS AND DELEGATIONS ARE SOMETIMES SLOW AND THAT PERHAPS DELEGATES UNAWARE THAT THEIR GOVERNMENTS APPEAR TO HAVE ACCEPTED THE PROHIBITION ON TAKING OF HOSTAGES WITH RESPECT TO NLM'S AT GENEVA DURING DRAFTING OF PROTOCOLS. SUGGESTED FURTHER DISCUSSION OF APPLICATION OF CONVENTION TO NLM'S BE DEFERRED PENDING CLARIFICATION THIS FACTUAL ISSUE. MEXICO STRONGLY SUPPORTED US SUGGESTION.

5. SOVIET HAVE BEEN PARTICULARLY UNHELPFUL IN COMMITTEE. NOT ONLY HAVE THEY SUPPORTED EXCEPTION FOR NLM'S BUT WHEN LEADER OF RADICALS BOUAYAD-AGAH (ALGERIA) IS ABSENT, USSR LEADS PROCEDURAL ARGUMENTS AGAINST ANY PROPOSALS THAT WOULD FURHTER POSITION OF FRG DRAF AS MAIN WORKING PAPER OF COMMITTEE.

6. ADDITIONAL ISSUE RASIED BY TANZANIA AND USSR IS RESPECT FOR TERRITORIAL INTEGRITY OF STATES. TANZANIA HAS PROPOSED INCLUSION OF FOLLOWING PROVISION IN ANY DRAFT CONVENTION: STATES SHALL NOT RESORT TO THE THREAT OR USE OF FORCE AGAINST THE SOVEREIGNTY, THE TERRITORIAL INTEGRITY OR THE INDEPENDENCE OF OTHER STATES AS A MEANS OF RECUSING HOSTAGES. US SAID TH EXTENT THAT PROPOSAL REFLECTS CHARTER PRINCIPLE PROPOSITION WAS INDISPUTABLE

HOWEVER, US QUESTIONED THE PROPRIETY OF THE REFERENCE IN A CONVENTION AND THE PARTICULAR WORDING OF THE TANZANIAN DRAFT. SAID THAT ISSUE SHOULD NOT PROVE TOO DIFFICULT TO RESOLVE AND SUGGESTED THAT IT BE PUT ASIDE UNTIL MORE APPROPRIATE TIME FOR DISCUSSION.

7. NO STATE HAS RAISED ISSUE OF STATES TAKING WHOLE PEOPLES HOSTAGES DURING THE SUBSTANTIVE DEBATE.

8. MEXICO, LESOTHO AND VENEZUELA HAVE URGUED THE INCLUSION OF A PROVISION TO EFFECT THE CONVENTION WILL NOT AFFECT THE PRINCIPLE OF ASYLUM. CHILE, NICARAGUA AND US POINTED OUT THAT OTHER ANTI-HIJACKING CONVENTIONS DON'T HAVE SUCH A PROVISION, LIMITED OFFICIAL USE

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THAT CONVENTION IS NOT INCONSISTENT WITH PRINCIPLE OF ASYLUM, AND THAT REFERENCE TO THE PRINCIPLE IN CONVENTION AGAINST THE TAKING OF HOSTAGES WOULD BE CONFUSING. MEXICO REFERRED TO THE COMPROMISE LANGUAGE IN THE PROTECTION OF DIPLOMATS CONVENTION AND SAID ISSUE SHOULDN'T PRESENT MUCH OF A PROBLEM.

9. FRG SATISFIED WITH CONSIDERATION BEING GIVEN TO THEIR DRAFT AND MAIN FOCUS ON IT. ALL SPEAKERS HAVE ADDRESSED THE DRAFT, SEVERAL IN DETAIL. NEVERTHELESS, TANZANIA, USSR, AND ALGERIA HAVE REPEATEDLY SAID THAT FRG DRAFT IS NOT

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ONLY PROPOSAL BEFORE THE COMMITTEE, THAT NO PROPOSAL HAS PRIORITY, AND THE SECRETARIAT PAPER BEING PREPARED ON PROPOSALS OF STATES MAY PROVIDE NEW STRUCTURE FOR COMMITTEE DEBATE. SECRETARIAT PAPER WILL BE DISTRIBUTED AUGUST 15.

10. US SUGGESTED NEAR END OF PM SESSION THAT COMMITTEE HAD GIVEN SUFFICIENT CONSIDERATION TO QUESTION OF SCOPE OF CONVENTION AND SHOULD NOW MOVE ON IN STRUCTURED DEBATE TO A NEW ISSUE. IN PRIVATE, US AND UK SUGGESTED TO FRG THAT THEY SHOULD FIND SOMEONE TO BEGIN AM SESSION AUG. 16 BY DISCUSSING ARTICLE 2 OF FRG DRAFT.

11. AFRICAN GROUP MET BEFORE PM MEETING. LACK OF ANY SPECIFIC PROPOSALS OR TACTICS BY GROUP SUGGEST THAT THEY CONTINUE TO DISAGREE.

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Message Attributes

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Disposition Approved on Date:
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Disposition Date: 22 May 2009
Disposition Event:
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TAGS: PFOR, PORO, PINS, GE, UN
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